

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

WAYNE MORRICAL,

Plaintiff,

v.

ORDER

20-cv-602-wmc

KILOLO KIJAKAZI, Acting Commissioner
For Social Security,

Defendant.

Dana Duncan, counsel for plaintiff Wayne Morrical, moves under 42 U.S.C. § 406(b) for a fee award of \$15,400 after plaintiff was awarded past-due benefits. Counsel's requested fee represents 25% of plaintiff's past-due benefits, so it falls within the amount allowed by statute and the parties' fee agreement. *See Gisbrecht v. Barnhart*, 535 U.S. 789, 792 (2002). The commissioner does not oppose counsel's fee request, but filed a brief to clarify that Duncan's fee request should be reduced by the previously-awarded EAJA award. (Dkt. #40.)

The total amount of time that counsel's firm spent on this case for proceedings in this court was 43.05 hours, resulting in a proposed effective rate of \$357.72 an hour. Of the 43.05 hours, 28 hours was attorney time and the remainder was for counsel's legal assistants. (Dkt. #38-3.) Counsel's requested fee is within the bounds of what is reasonable in light of counsel's experience, his risk of non-recovery, the work he performed, the results he obtained, and the amounts awarded in similar cases. Therefore, the court will grant counsel's motion. For simplicity, the court will subtract the \$7,138.01 fee that counsel

received under the Equal Access to Justice Act, which would otherwise have to be refunded to plaintiff.

ORDER

IT IS ORDERED that Dana W. Duncan's motion for attorney fees under 42 U.S.C. § 406(b) (dkt. #38) is GRANTED. The court APPROVES a representative fee of \$8,261.99.

Entered this 27th day of January, 2023.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge